

FAYETTE OIL & GAS CORP.

IBLA 82-1110

Decided February 22, 1983

Appeal from Oregon State Office, Bureau of Land Management, decision rejecting noncompetitive over-the-counter oil and gas lease offer, OR 33148.

Reversed and remanded.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Filing -- Oil and Gas Leases: First-Qualified Applicant

Where an oil and gas lease offeror signs an offer form in ink, photocopies four exact reproductions of the offer form, including the signature, with the intent that the photocopied signature be his signature, and submits the five documents as the offer, that offer fulfills the signature requirement of 43 CFR 3111.1-1(a), and it is improper to reject that offer because the four photocopies were not personally signed.

APPEARANCES: Ronald S. Yockim, Esq., Lake Oswego, Oregon, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Fayette Oil and Gas Corporation (Fayette) has appealed from a decision of the Oregon State Office, Bureau of Land Management (BLM), which rejected a noncompetitive oil and gas lease offer, OR 33148, stating that regulation, 43 CFR 3111.1-1, requires each of the five copies of an offer to be signed, in ink, and that only the original of the five copies of the offer in this case was personally signed. The other four copies were photocopies of the original signed copy.

The regulation, 43 CFR 3111.1-1(a) provides:

(a) Application -- (1) Forms. Except as provided in Subpart 3112, to obtain a noncompetitive lease an offer to accept such lease must be made on a form approved by the Director, "Offer to lease and lease for oil and gas," or on unofficial copies of that form in current use: Provided, That the copies

are exact reproductions of one page of both sides of the official approved one page form and are without additions, omissions or other changes or advertising. The official form or a valid reproduction of the official form will also constitute the lease when signed by the Authorizing officer of the Proper Office. Each offer must be filled in by typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney-in-fact or agent. Five copies of the official form, or valid reproduction thereof, for each offer to lease shall be filed in the proper office (see § 3000.5 of this chapter). For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours. [Emphasis added.]

In the statement of reasons for appeal, counsel for Fayette states: [T]he original copy of the lease offer had been signed by Dennis W. Yockim, President of Fayette Oil & Gas Corporation, with the remaining four copies being photocopied reproductions of the original. Each copy contained an exact reproduction of Mr. Yockim's signature. Furthermore each copy was an exact reproduction of both sides of the one page form, with no additions, omissions, or other changes or advertising. The authority to submit exact copies was obtained from 43 CFR 3111.1-1(a) * * *. These copies were made at Mr. Yockim's request and signature on each copy is his own and placed on each photocopied page at his direction. The Oregon State Office has taken the position that photocopied reproductions of the original application do not satisfy the requirements of 43 CFR 3111.1-1, and insist that each copy must be individually signed. The Oregon Office is in error on this point and a careful reading of 43 CFR 3111.1-1 does not provide any authority for this position. Therefore the Oregon Office has acted arbitrarily and capriciously in rejecting this application.

In support of its contentions, counsel for Fayette cites A. M. Culver, 70 I.D. 484 (1963), and Mary Adele Monson, 71 I.D. 269 (1964). He asserts the Department held in Culver that it was sufficient if only one copy of an offer was directly signed in ink and the signature was impressed on the other four copies through the use of carbon paper. He states that Monson cited Culver with approval. Counsel concludes that exact reproductions of the signature applied by mechanical means are sufficient, and therefore Fayette was acting properly when it photocopied the application.

The Culver case cited by appellant does not stand for the asserted proposition. Culver did not concern a question of signatures on an offer; rather, it dealt with the legibility of copies of an offer prepared by the use of a typewriter and carbon paper. Although Culver was cited in Monson, it was cited for the proposition that a document may qualify as a copy of a lease offer even though partially illegible. However, the Department did state in Monson with respect to the requirement of signing the offer that:

[T]he regulation does not require that each of the five required copies be individually signed in ink, but it is sufficient if only one copy was directly signed in ink and the signature was impressed on the other four copies through the use of carbon paper. Duncan Miller, Robert A. Priester, A-28621 etc. (May 10, 1961).

Mary Adele Monson, *supra* at 271 n.2.

[1] There is no question in this case that the original was signed in ink by appellant's president. The issue is whether the photocopies of that original signature satisfy the regulation. In Duncan Miller, 10 IBLA 208 (1973), we held that an oil and gas lease offer is properly rejected where the fifth copy of the offer form bears the typewritten name of the offeror but does not bear the handwritten signature, as do the other four copies. We stated that the regulation, 43 CFR 3111.1-1(a), requires that each form or copy must be signed. That decision was reached, however, because it seemed obvious that the failure to sign the last copy of the offer was an inadvertence, and, even though a typewritten name may constitute a signature if made with that intent, no such intent was manifest in that situation. In the present situation, however, counsel for Fayette asserts that the photocopied reproductions of the signature, manually signed in ink on the original, were made with the intent that they constitute a signature.

In Mary I. Arata, 4 IBLA 201, 203, 78 I.D. 397, 398 (1971), we stated:

There is an abundance of legal authority discussing and interpreting the terms "sign" and "signature." Many state and federal cases hold that the terms include any memorandum, mark, or sign, written or placed on any instrument or writing with intent to execute or authenticate such instrument. It may be written by hand, printed, stamped, typewritten, or engraved. It is immaterial with what kind of instrument a signature is made. Joseph Denunzio Fruit Co. v. Crane, 79 F. Supp. 117 (S.D. Cal. 1948), vacated on other grounds, 89 F. Supp. 962 (S.D. Cal. 1950), rev'd, 188 F.2d 569 (9th Cir. 1951), cert. denied, 342 U.S. 820 (1951) (contract); Plemens v. Didde-Glaser, Inc., 244 Md. 556, 224 A.2d 464 (1966) (Uniform Commercial Code); Blackburn v. City of Paducah, 441 S.W. 2d 395 (Ky. 1969) (resignation of city official); Weiner v. Mullaney, 59 Cal. App. 2d 620, 140 P.2d 704 (1943) (trust); Bishop v. Norell, 88 Ariz. 148, 353 P.2d 1022 (1960) (Statute of Frauds). The law is well settled that a printed name upon an instrument with the intention that it should be the signature of the person is valid and has the same effect as though the name were written in the person's own handwriting. Roberts v. Johnson, 212 F.2d 672 (10th Cir. 1954).

In this case the original was signed in ink by appellant's president; four exact reproductions of that original were made at the direction of the signatory; and it is alleged that the signatory intended that the photocopied signature be his "signature."

We find that appellant has complied with 43 CFR 3111.1-1(a). The situation is similar to that involved in the 1961 Duncan Miller case. In Miller only one copy of the offer contained an original signature. The other four copies had carbon signatures. Just as the use of carbon paper in the preparation of documents was accepted business practice 20 years ago, so too is the present use of photocopies. Where an oil and gas lease offeror signs an offer form in ink and submits that form plus four exact reproduction photocopies of that form intending that the photocopied signature be the official signature of the offeror, the offeror has complied with the signature requirement of 43 CFR 3111.1-1(a).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and remanded to BLM for further adjudication of appellant's offer.

Bruce R. Harris
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

James L. Burski
Administrative Judge

